

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

JOAN R. BAILEY, *Individually and as
Administrator of the Estate of Robert L. Bailey,
deceased,*

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

DECISION AND ORDER
12-CV-735S

This is a wrongful death action arising from the death of Robert L. Bailey. Before this Court is Plaintiff's Motion to Approve Settlement. (Docket No. 18.) Because this action is brought on behalf of an estate, it cannot be settled without leave of this Court. See Local Rule 41(a)(2)(A).

This Court has considered Plaintiff's motion and the material terms of the settlement. Based on that review, this Court finds that the proposed settlement is in the best interests of the estate and distributees. In so finding, this Court has considered (1) the circumstances giving rise to the claim, (2) the nature and extent of the damages, (3) the terms of the settlement and amount of attorneys' fees and other disbursements, (4) the circumstances of any other claims or settlements arising out of this same occurrence, and (5) the plaintiff's statement of why she believes this settlement is in the best interest of the estate and the distributees. See Local Rule 41(a)(2)(i)-(iv). Plaintiff's motion will therefore be granted and this settlement approved.

IT HEREBY IS ORDERED, that Plaintiff's Motion to Approve Settlement (Docket No. 18) is GRANTED.

FURTHER, that the settlement is APPROVED.

FURTHER, that the attorney's fees and disbursements are APPROVED.

FURTHER, that the remainder of net proceeds must be paid and distributed to Joan R. Bailey, as administrator of the estate of Robert L. Bailey.

FURTHER, that Defendants shall issue a check payable to "The Law Offices of James Morris and Joan R. Bailey, as administrator of the estate of Robert L. Bailey" for the total settlement amount.

FURTHER, that the parties must cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this settlement.

FURTHER, that the Administrator must make application to the State of New York Surrogate's Court of Erie County for an Order of allocation and distribution of the net proceeds of the settlement pursuant to § 5-4.4 of the New York Estates, Powers, and Trusts Law.

FURTHER, that the Clerk of Court is directed to CLOSE this case.

SO ORDERED.

DATED: February 27, 2013
Buffalo, NY

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court